

Message Text

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ORIGIN OPIC-06

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P 291645Z JAN 76

FM SECSTATE WASHDC

TO AMEMBASSY BAMAKO PRIORITY

AMEMBASSY LIBREVILLE PRIORITY

AMEMBASSY LOME PRIORITY

AMEMBASSY YAOUNDE PRIORITY

AMEMBASSY OUAGADOUGOU PRIORITY

AMEMBASSY ABIDJAN PRIORITY

AMEMBASSY ADDIS ABABA PRIORITY

AMEMBASSY LUSAKA PRIORITY

AMEMBASSY NAIROBI PRIORITY

AMEMBASSY PARIS PRIORITYCAP PARIS FOR RFC

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E.O. 11652:N/A

TAGS: EFIN

SUBJECT: TAW

REF: LUSAKA 0318

1. FYI: ON JANUARY 19, 1976 THE TAW COMPANIES AND
THOMAS A. WOOD COMMENCED SUIT IN NEW YORK TRIAL COURT
AGAINST OPIC AND OTHER MAJOR CREDITORS (INCLUDING ALL
MEMBERS OF THE CREDITORS COMMITTEE UNDER A COMPOSITION
AGREEMENT AMONG TAW AND SOME OF ITS CREDITORS) ALLEGING
THAT THE CREDITORS COMMITTEE HAD DIRECTED TAW TO MAKE
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TRANSFERS FROM RESTRICTED BANK ACCOUNTS IN NINE AFRICAN

COUNTRIES IN VIOLATION OF LOCAL LAWS AND EXCHANGE CONTROL REGULATIONS; THAT THE CREDITORS HAD BEEN WARNED BY TAW THAT SUCH TRANSFER WOULD BE ILLEGAL BUT THAT THE CREDITORS FORCED TAW TO MAKE THE TRANSFERS UNDER THE THREAT OF DECLARING TAW IN DEFAULT UNDER THE COMPOSITION AGREEMENT. IN A PRELIMINARY HEARING ON THIS MATTER THE CREDITORS HAVE RESPONDED THROUGH THE CREDITORS COMMITTEE THAT THE CREDITORS DO NOT INTERPRET THE COMPOSITION AGREEMENT AS REQUIRING TAW TO MAKE ANY TRANSFER WHICH IN FACT IS ILLEGAL; THAT THE CREDITORS HAVE NEVER ASSERTED ANY DEFAULT OF THE COMPOSITION AGREEMENT BY TAW FOR FAILURE TO MAKE ANY TRANSFER FROM A RESTRICTED BANK ACCOUNT AND THAT, IF TAW

CAN SHOW THAT ANY REQUEST OF TRANSFER IS ILLEGAL, THE CREDITORS WOULD NOT DIRECT TAW TO MAKE ANY SUCH TRANSFER. THE CREDITORS HAVE POINTED OUT THAT TAW HAS ON NUMEROUS OCCASIONS IN THE PAST STATED THAT IN ITS VIEW REQUESTED TRANSFERS MAY BE ILLEGAL, BUT THAT WHEN ASKED TO PROVIDE CITATIONS TO SPECIFIC LAWS AND REGULATIONS NO CITATIONS OR OTHER LEGAL AUTHORITY WERE EVER FORTHCOMING. THE FOREGOING IS GIVEN FYI ONLY.

2. THE CREDITORS COMMITTEE IS CONCERNED WITH RESPECT TO THE FATE OF RESTRICTED BANK ACCOUNTS WHICH HAVE BEEN ESTABLISHED AS FOLLOWS:

A. BANQUE DU DEVELOPMENT DU MALI, BOMAKO, MALI. ACCOUNT NUMBER 204.1330.

B. UNION GABONAISE DE BANQUE, LIBREVILLE, GABON. ACCOUNT NUMBER 60.917.

C. BANQUE NATIONALE DE PARIS, LOME, TOGO. ACCOUNT NUMBER 190.163.

D. SOCIETE GENERALE DE BANQUE, YAOUNDE, CAMEROON. ACCOUNT NUMBER 1209.

E. BANQUE INTERNATIONALE POUR LE COMMERCE ET L'INDUSTRIE, OUAGADOUGOU, UPPER VOLTA. ACCOUNT NUMBER 81.011.
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F. BANQUE INTERNATIONALE POUR L'AFRIQUE OCCIDENTALE, ABIDJAN, IVORY COAST. ACCOUNT NUMBER 36.018.385J.

G. COMMERCIAL BANK OF ETHIOPIA, ADDIS ABABA, ETHIOPIA. ACCOUNT NUMBER T30411-5.

H. STANDARD BANK OF UGANDA, KAMPALA, UGANDA.

I. STANDARD BANK ZAMBIA LTD., LUSAKA, ZAMBIA. ACCOUNT
NUMBER 2.

3. THE CREDITORS COMMITTEE ON JANUARY 26 SENT COMMERCIAL
CABLES TO ALL OF THE ABOVE LISTED BANKS THE TEXT OF WHICH
IS AS FOLLOWS: QUOTE

(BANK ADDRESS) JANUARY 26, 1976

RE: RESTRICTED BANK ACCOUNT

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TAW INTERNATIONAL LEASING, INC., TAW INTERNATIONAL LEASING
CORPORATION, AND TAW SERVICE LIMITED HAVE ENTERED INTO A
COMPOSITION AGREEMENT WITH CERTAIN OF THEIR CREDITORS.

THE COMPOSITION AGREEMENT REQUIRES THESE TAW COMPANIES TO
ESTABLISH A RESTRICTED BANK ACCOUNT IN CERTAIN BANKING
INSTITUTIONS, OF WHICH YOUR BANK IS ONE, UNDER BINDING
INSTRUCTIONS SPECIFYING THAT NO AMOUNTS IN SUCH RESTRICTED
BANK ACCOUNT MAY BE WITHDRAWN WITHOUT THE PRIOR WRITTEN
CONSENT OF THE CREDITORS' COMMITTEE. THESE INSTRUCTIONS
MAY NOT BE AMENDED OR REVOKED WITHOUT THE PRIOR WRITTEN
CONSENT OF THE CREDITORS' COMMITTEE.

THIS WILL INFORM YOU THAT THE CREDITORS' COMMITTEE HAS NOT
CONSENTED TO THE WITHDRAWAL OF ANY FUNDS AFTER DECEMBER
31, 1975, FROM ANY OF THE RESTRICTED BANK ACCOUNTS. THESE
TAW ACCOUNTS MAY BE IDENTIFIED BY ACCOUNTS ON WHICH
HARRY F. CAVANAUGH IS OR HAS BEEN A SIGNATORY. WE ARE
ADVISED THAT ACCOUNT NUMBER () IN YOUR BANK IS A
RESTRICTED BANK ACCOUNT.

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PLEASE CONFIRM RECEIPT BY CABLE TO THE UNDERSIGNED TO
(OPIC ADDRESS).

SIGNATURE:

THE CREDITORS' COMMITTEE
UNDER THE COMPOSITION AGREEMENT

BY: OVERSEAS PRIVATE INVESTMENT CORPORATION

BY: PAUL J. MULLER, TREASURER. END QUOTE.

4. GIVEN THE OBLIGATIONS OF TAW TO ESTABLISH SUCH BANK
ACCOUNTS IN A WAY THAT WOULD INSURE CREDITOR CONTROL OVER

THEM, IT IS THE CREDITORS VIEW THAT ANY TRANSFER BY TAW
ACTING ALONE OUT OF SUCH ACCOUNTS WOULD BE WRONGFUL AS
TO THE CREDITORS. THE BANKS ARE NOW ON NOTICE OF THIS
FACT. REQUEST THAT COMMERCIAL OFFICER AT ADDRESSED POSTS
MAKE DISCRETE INQUIRY ON BEHALF OF CREDITORS COMMITTEE
(NOT REPEAT NOT ON BEHALF OF USG OR OPIC ALONE) TO
NAMED BANKS AS TO WHETHER TAW IS ATTEMPTING TO MAKE UNI-
LATERAL WITHDRAWALS FROM SAID ACCOUNTS IN VIOLATION OF
COMPOSITION AGREEMENT. IF RECENT WITHDRAWALS HAVE BEEN
MADE WOULD APPRECIATE SUCH DETAILS AS WOULD BE AVAILABLE.
REQUEST RESPONSE ASAP, ATTN: OPIC, IN VIEW OF POSSIBILITY
OF DISSIPATION OF FUNDS.

5. THANK YOU FOR YOUR ASSISTANCE. DECONTROL ON
1/28/81. KISSINGER

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